

REMARKS

Please note the fact that February 24, 2008, fell on a Sunday ensures that this paper is timely filed as of today, Monday, February 25, 2008 (the next business day).

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the following remarks.

Claims 1-19 were pending in the instant application at the time of the outstanding Office Action. Of these claims, Claims 1, 10, and 19 are independent claims; the remaining claims are dependent claims. Claims 1, 10, 12, and 19 have been rewritten to correct typographical errors noted therein during the preparation of this amendment.

Applicants are not conceding in this application the claims amended herein are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1, 3, 5-10, 12, and 14-19 stand rejected under 35 USC § 102(b) as being anticipated by Sevasti et al. (hereinafter “Sevasti”). Claims 2-4 and 11 and 13 stand

rejected under 35 USC § 103(a) as obvious over Sevasti in view of King et al. (hereinafter “King”). Reconsideration and withdrawal of these rejections is respectfully requested.

Section 102(a) Rejection - Sevasti fails to disclose all claim elements

With regards to the rejection for anticipation under 35 U.S.C. § 102, Applicants respectfully submit that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under construction.” W.L. Gore & Associates, Inc. v. Garlock, 721 F.2d 1540, 1554 (Fed. Cir. 1983); *see also* In re Marshall, 198 U.S.P.Q. 344, 346 (C.C.P.A. 1978).

Sevasti teaches a video annotating tool for children. The tool comprises a “Video Explorer” that displays thumbnails of video recordings stored on the system and an “Annotation Panel” that appears to provide selection and annotation tools for video annotation. A user selects a video frame to be annotated via the “Video Explorer” and then annotates the video frame via the “Annotation Panel” (page 189, Section 3) with either sound or image annotations.

The annotation tools appear as palettes below the video thumbnails. By selecting icons on the palettes the children can place either pre-selected video or audio components in the video recording. The children can also select a microphone icon to place their own spoken audio annotations on the soundtrack for the video (page 190, Section 3.2).

The audio annotation features of the “Annotation Panel” merely teaches a capability for making audio annotations to a video and adding those annotations to the video soundtrack so that the annotations are heard during playback. The audio

annotations made by the children are based upon the video being viewed and not upon the soundtrack. Nowhere does Sevasti actually teach that the soundtrack is being played as the video is being viewed for annotation such that **a video portion including audio is being observed and annotated** as is currently claimed in claim 1. The rejection is therefore improper.

Section 103(a) Rejection -

The combination of Sevasti and King ('775) lacks motivation:

With regards to the motivation to combine the teachings of Sevasti and King ('775) under 35 U.S.C. § 103(a), Applicants respectfully submit that “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.” In re Mills, 816 F.2d 680 (Fed. Cir. 1990). And further that “[i]f [a] proposed modification would render the prior art invention being modified unsuitable for its intended purpose, then there is no suggestion or motivation to make the propose modification.” In re Gordon, 733 F.2d 900 (Fed. Cir. 1984).

The Examiner asserts that Sevasti fails to teach an input interface that permits the observation of both an audio portion including video and a video portion that includes audio (Applicants’ claim 2) or the observation of solely an audio portion (Applicants’ claim 4). The Examiner then points out the teachings of King ('775) with regards to an annotation tool for annotating music and states that it would have been obvious to one of ordinary skill in the art to modify the annotation tool of Sevasti to incorporate the teachings of King ('775) for annotating other indexed data structures to provide a tool

that permits the observation and annotation of audio along with video or of audio solely just for the sake of doing so. Appellants respectfully disagree.

Applicants respectfully submit that incorporating the teachings of King ('775) into the annotation tool of Sevasti, as set forth by the Examiner, would render the annotation tool of Sevasti unsuitable for its intended purpose.

The annotation tool taught by Sevasti is especially designed for use by **children**. Adding audio annotation capabilities or the capability of annotating other indexed data structures as suggested by King ('775), especially just for the sake of doing so, would unnecessarily complicate the functionality of the annotating tool taught by Sevasti. Such a modification would likely render the tool taught by Sevasti confusing for children since simple thumbnails of video would have to be replaced or augmented by some type of time index or the like that may not be as readily understood by children.

Moreover, the tool taught by Sevasti is designed to give children a “deeper interaction” with educational experiences by allowing them to review events of a day and comment on them. This is done by providing the children with a camera during the day and then allowing them to annotate and comment upon the images and events that are recorded (page 187, Section 1). Providing annotation of indexed audio only would detract from this interactivity since the children would only be able to hear and not see the events they recorded.

The Examiner fails to point out how the ability to annotate audio with video and audio only will augment the functionality of the annotating tool of Sevasti for its intended

purpose and will not detract from the functionality of the tool in light of its intended purpose. The rejection is therefore improper.

Request for Telephone Interview

Upon picking up the case, should the Examiner find the claims are not immediately allowable, the Applicants request the courtesy of a telephone interview prior to the issuance of a further Office Action. Such an interview may be arranged by contacting the undersigned at the telephone number shown below.

Conclusion

The “prior art made of record” has been reviewed. Applicants acknowledge that such prior art was not deemed by the Office to be sufficiently relevant as to have been applied against the claims of the instant application. To the extent that the Office may apply such prior art against the claims in the future, Applicants will be fully prepared to respond thereto.

/

/

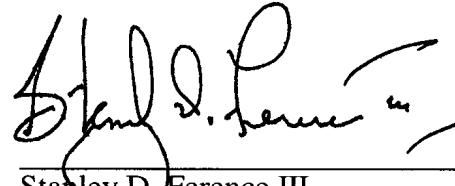
/

/

/

In summary, it is respectfully submitted that the instant application, including Claims 1-19, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Stanley D. Ference III
Registration No. 33,879

Customer No. 47049
FERENCE & ASSOCIATES
409 Broad Street
Pittsburgh, Pennsylvania 15143
(412) 741-8400
(412) 741-9292 - Facsimile

Attorneys for Applicants